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EXAMINER NGUYEN, MERILYN P				
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/669,822  
Filing Date: September 24, 2003  
Appellant(s): AGUREN, JERRY G.

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Mark E. Scott  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 12/19/2007 appealing from the Office action mailed 10/19/2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

2004/0153479

Mikesell

08-2004

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***DETAILED ACTION***

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 15-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Mikesell (US 2004/0153479).

Regarding claim 15, Mikesell discloses a system (Fig. 1) comprising:

- a client computer (User 130, Fig. 1);
- a server coupled to the client computer (Server 120 including intelligent distributed file system 110, Fig. 1 corresponds to Applicant's server);
- a first storage device coupled to the server having a storage attribute (smart storage unit 0, Fig. 1 including storage device 360 (figure 3) and paragraph [0092]);
- a second storage device coupled to the server having a storage attribute (smart storage unit 1, Fig. 1 including storage device 360 (figure 3) and paragraph [0092]);

wherein the server is configured to accept files in a user namespace (hierarchical naming) and in a user file structure(metadata data structure) (See Figure 4, paragraphs [0067], [0071] and [0076]); and

wherein the server stores the file on at least one of the first and second storage devices in a global namespace different than the user namespace, the selection of the storage location made by the server based on the attributes of the storage devices and storage preferences for the file (See paragraphs [0076-0101], wherein Milesell discloses the selection of the storage location based on the attributes of the storages and storage preferences for the file as “the smart unit 114 is a plug-and-play, high-density, rack-mountable appliance device that is optimized for high-throughput data delivery [0080]...retrieve locally and/or remotely stored metadata about the requested data files [0086]...Information about where to allocate the blocks may be determined by policies set as default parameter [0089]...The forward allocator module 110 receives statistics from the other smart storage units that use the intelligent distributed file system, and use those statistics to decide where the best location is to put new incoming data. The statistics that are gathered includes disk utilization [0096]...A variety of strategies may be used to determined where to store data. These strategies may be adjusted depending on the goals of the system, such as, compliance with parameters or preferences set by the system’s administrator [0098]...The forward allocator module looks up in the root metadata data structure for disk device information and calculates the number of smart storage units across which the file data should be spread using performance metrics or preset rules. The forward allocator module may then allocate the blocks of the file to a set of smart storage units [0101]).

Regarding claim 16, Mikesell discloses wherein the server further comprises:

a software agent that executes on the server (smart storage unit 114, Fig. 1 including different modules such as block allocation manager module, and forward allocator module);

wherein the software agent interfaces (via communication medium 140) with the client computer (user 130, Fig. 1) and simulates the network storage device operating in the user namespace (See paragraphs [0092] and [0097]); and

wherein the software agent decides on which of the first and second storage devices to store the file based on the attributes of the storage devices and the storage preference for the file (See paragraphs [0080-0098]).

Regarding claim 17, Mikesell discloses wherein the server further comprises:

a software service (Forward Allocator Module) that executes on the server (See pages 7 and 8, paragraphs [0095-0101]); and

wherein the software service stores the file on one of the first and second storage devices based on instructions from the software agent (smart storage unit 114) (See page 8 and paragraph [0101]).

Regarding claim 18, Mikesell discloses:

a first software service associated with the first storage device, the first software service that executes on the server;

a second software service associated with the second storage device, the second software service that executes on the server; and

wherein the software agent directs at least one of the first and second software services to store the file on the storage device to which the software service is associated. Please see Fig. 3 and paragraphs [0095]-[0101].

**(10) Response to Argument**

**Response to Appellants's argument A on the 102 Rejection as being anticipated by Mikesell (US 2004/0153479).**

**Claim 15:**

Appellant argues (Appeal Brief, page 12, lines 19-23, Mikesell does not teach a “**server** stores the file on at least one of the first and second storage devices,...the selection of the storage location **made by the server** based on the attributes of the storage devices and storage preferences for the file”. The Examiner is not persuaded. The Server 120 including intelligent distributed file system 110 corresponds to Applicant's server and paragraphs [0076-0101] of Mikesell discloses the above limitation, especially “the smart unit 114 is a plug-and-play, high-density, rack-mountable appliance device that is optimized for high-throughput data delivery [0080]...retrieve locally and/or remotely stored metadata about the requested data files [0086]...**Information about where to allocate the blocks may be determined by policies set as default parameter** [0089]...The forward allocator module 110 receives **statistics** from the other smart storage units that use the intelligent distributed file system, and use those statistics to decide where the best location is to put new incoming data. The statistics that are gathered includes **disk utilization** [0096]...A variety of strategies may be used to determined where to store data. These strategies may be adjusted depending on the goals of the system, such as, compliance with parameters or preferences set by the system's administrator [0098]...The

forward allocator module looks up in the root metadata data structure for disk device information and calculates the number of smart storage units across which the file data should be spread using performance metrics or preset rules. The forward allocator module may then allocate the blocks of the file to a set of smart storage units [0101]]” corresponds to Appellant’s “the selection of the storage location **made by the server** based on the attributes of the storage devices and storage preferences for the file”. Mikesell (emphasis added) teaches information about where to allocate the blocks (file) may be determined by policies set as default parameter which shows storage preferences for the file. The selection of the storage location also based on statistics and disk utilization.

Appellant argues (Appeal Brief, page 13, lines 11-13), “Mikesell fails to expressly or inherently teach that the smart storage unit 114 could or should “accept files in a user namespace and in a user file structure””. The Examiner is not persuaded. Figure 4 and paragraphs [0067], [0071] and [0076]) teaches accept files in a user namespace (hierarchical naming) and in a user file structure (metadata data structure).

Claim 16:

Appellant argues (Appeal Brief, page 14) Mikesell fails to teach “a software agent that executes on the server; wherein the software agent interfaces with the client computer and simulates the network storage device operating in the user namespace; and wherein the software agent decides on which of the first and second storage devices to store the file based on the attributes of the storage devices and the storage preference for the file.” The Examiner is not persuaded. Mikesell teaches a software agent (corresponds to Mikesell smart storage unit 114, Figure 1 which includes different modules such as block allocation manager module and forward



allocator module) executes on the server (corresponds to Mikesell server 120 including intelligent distributed file system 110) and interfaces (via communication medium 140) with the client computer (user 130, Figure 1) and simulates the network storage device operating in the user namespace (See paragraphs [0092] and [0097]) and wherein the software agent decides on which of the first and second storage devices to store the file based on the attributes of the storage devices and the storage preference for the file (See paragraphs [0080-0098], Mikesell, especially “**Information about where to allocate the blocks may be determined by policies set as default parameter** [0089]...The forward allocator module 110 receives **statistics** from the other smart storage units that use the intelligent distributed file system, and use those statistics to decide where the best location is to put new incoming data. The statistics that are gathered includes **disk utilization** [0096]...A variety of strategies may be used to determined where to store data. These strategies may be adjusted depending on the goals of the system, such as, compliance with parameters or preferences set by the system’s administrator [0098]...The forward allocator module looks up in the root metadata data structure for disk device information and calculates the number of smart storage units across which the file data should be spread using performance metrics or preset rules. The forward allocator module may then allocate the blocks of the file to a set of smart storage units [0101])”).

#### **(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

Art Unit: 2168

Respective submitted,

/M. P. N./

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